

**FEDERAL HIGHWAY ADMINISTRATION
RECORD OF DECISION
FHWA-MN-EIS-03-01-F**

On Highway 371 North
From just south of the intersection with Crow Wing County State
Aid Highway 18 to just north of the intersection with
Cass County State Aid Highway 42
Cass and Crow Wing Counties, Minnesota
State Project 1116-22

A. DECISION

The selected alternative for the reconstruction of Highway 371 North from just south of the intersection with Crow Wing County State Aid Highway (CSAH) 18 in the City of Nisswa, Crow Wing County, to just north of the intersection with CSAH 42 in the City of Pine River, Cass County, Minnesota, as described in the Final Environmental Impact Statement (Final EIS), is Alternative 2 from the Draft EIS (see Figure 1). The proposed improvements include reconstructing Highway 371 North to a four-lane divided, controlled access highway that primarily follows the existing highway alignment. The total length of the project corridor is approximately 16.0 miles.

The Minnesota Department of Transportation (Mn/DOT) presented Alternative 2 as the preferred alternative at a public meeting on June 24, 2004. Based on comments received, revisions to the alignment were made to further minimize potential impacts. For example, the centerline spacing was reduced through the Nisswa Lakes Area and north of downtown Pequot Lakes from 90 feet to 75 feet. Other modifications included minor alignment shifts to minimize social impacts (right-of-way acquisition and relocations) and environmental impacts (wetlands) and to minimize impacts on the Paul Bunyan Regional Trail corridor. A revised analysis of potential social, economic, and environmental impacts resulting from the preferred alternative is presented in the Final EIS which was approved in January 2005.

B. ALTERNATIVES CONSIDERED

The Draft EIS was approved in December 2003. This document analyzed, in detail, four build alternatives (all four-lane alternatives) and identified the potential social, economic and environmental impacts associated with each Build Alternative and the No-Build Alternative. The Draft EIS was published for public



review and comment on December 19, 2003. A public hearing was held on January 14, 2004.

After concluding the Draft EIS comment period on February 9, 2004, an evaluation process was initiated to identify a preferred alternative. The evaluation process considered all public and agency comments received and weighed the project goals and needs against the technical analysis and potential effects of each alternative. Through this process, Alternative 2 was identified as the preferred alternative. The alternatives considered and reasons for their dismissal in favor of the selected alternative (Alternative 2) are discussed in detail in the Final EIS. This information is summarized below:

Alternative 1 - No-Build

Under the No-Build Alternative, improvements to Highway 371 North would be limited to normal pavement maintenance and minor transportation system management improvements, including shoulder widening, new and/or lengthened turn lanes, periodic shoulder bypass lanes, access consolidation, and minor geometric changes. The No-Build Alternative was used as a baseline for comparison with the Build Alternatives, but was dismissed from further consideration because it did not address the project purpose and need objectives, which included improving safety, reducing congestion, and correcting design deficiencies.

Alternative 2 - Existing Alignment

This alternative would reconstruct Highway 371 North as a four-lane divided roadway primarily on its existing alignment. Alternative 2 has been identified as the preferred alternative.

Alternative 2 is the environmentally preferred alternative. This alternative minimizes impacts to the natural environment, requires the least amount of new right-of-way, has the fewest relocation impacts, has the best benefit-cost ratio, and has the lowest estimated project cost. In addition, this alternative allows for the implementation of access management strategies and provides a safe and efficient transportation facility. This alternative received the greatest amount of support from the public and city officials during the public comment period.

Alternative 3 - Existing Alignment with a Pequot Lakes Bypass

This alternative would reconstruct Highway 371 North as a four-lane divided roadway on its existing alignment from just south of CSAH 18 in Nisswa to just north of the County Road 107/168 intersection in Pequot Lakes. At that location, Alternative 3 would be constructed on new alignment extending along the eastern

edge of downtown Pequot Lakes. The bypass alignment would cross over CSAH 11 approximately 0.6 miles east of the existing Highway 371/CSAH 11 intersection. The bypass would continue north and cross CSAH 16 approximately 0.3 miles east of the existing Highway 371/CSAH 16 intersection. The bypass alignment then returns to the existing Highway 371 corridor near the southern edge of downtown Jenkins and continues along the existing alignment through Jenkins and Pine River.

This alternative was dismissed from further consideration because it required substantial additional acquisition of right-of-way and a greater number of residential and commercial relocations than the selected alternative. Additionally, this alternative was more costly than Alternative 2 and would result in increased environmental impacts including more impacts to wetlands, farmlands, and vegetation.

Alternative 4 – Existing Alignment with a Pequot Lakes Bypass and Jenkins Bypass

Alternative 4 would reconstruct Highway 371 North as a four-lane divided roadway on its existing alignment from just south of CSAH 18 in Nisswa to just north of the County Road 107/168 intersection in Pequot Lakes. At that location, Highway 371 would be reconstructed on a new alignment extending along the east edge of the downtown Pequot Lakes area crossing CSAH 11 approximately 0.6 miles east of the existing Highway 371/CSAH 11 intersection. The bypass would continue northwest and cross CSAH 16 immediately west of the existing Highway 371/CSAH 16 intersection and extend around the west side of downtown Jenkins on a new alignment crossing County Road 15/115 approximately 0.3 miles west of the existing Highway 371/CSAH 15 intersection. The alignment would then return to the current Highway 371 corridor near the Crow Wing/Cass County line and continue along the existing alignment north through Pine River.

This alternative was dismissed from further consideration because it required substantial additional acquisition of right-of-way and a greater number of residential and commercial relocations than the selected alternative. Additionally, this alternative was more costly than Alternative 2 and would result in increased environmental impacts including more impacts to wetlands, farmlands, and vegetation.

Alternative 5 – Existing Alignment with a Jenkins Bypass

This alternative would reconstruct Highway 371 North as a four-lane divided roadway on its existing alignment from just south of CSAH 18 in Nisswa to just south of the CSAH 16 intersection in Jenkins. At that location, Highway 371 would be reconstructed on

a new alignment extending around the west side of downtown Jenkins, crossing County Road 15/115 approximately 0.3 miles west of the existing Highway 371/CSAH 15 intersection. The alignment would then return to the current Highway 371 corridor near the Crow Wing/Cass County line and continue along the existing alignment north through Pine River.

This alternative was dismissed from further consideration because it required substantial additional acquisition of right-of-way and a greater number of residential and commercial relocations than the selected alternative. Additionally, this alternative was more costly than Alternative 2 and would result in increased environmental impacts including more impacts to wetlands, farmlands, and vegetation.

C. SECTION 4(f)

The preferred alternative has been designed to avoid Section 4(f) resources to the extent practical and minimize harm where avoidance was not possible. The Final Section 4(f) Evaluation presented in Appendix B of the Final EIS provides a complete evaluation of three Section 4(f) resources: Paul Bunyan Regional Trail, Pine River Depot, and the Brainerd and Northern Minnesota Railway Corridor that will be impacted by the selected alternative. The Final Section 4(f) Evaluation also details the problems associated with alternatives that avoid using land from the Section 4(f) properties. The social, economic, and environmental impacts reach extraordinary magnitudes as a result of the avoidance alternatives.

Paul Bunyan Regional Trail

The Paul Bunyan Regional Trail is a multi-purpose recreational trail located within the project corridor. The trail parallels Highway 371 throughout the entire project corridor and in several places is immediately adjacent to the highway. All of the build alternatives, including the selected alternative, required shifting the trail and its right-of-way for the expansion of the highway. The selected alternative results in direct impacts to five areas of the trail and requires approximately 19,350 feet of the trail to be realigned. To mitigate these impacts, Mn/DOT is proposing to relocate the trail and maintain the recreational corridor throughout the project area. The Minnesota Department of Natural Resources (Mn/DNR) has concurred with this mitigation approach. The correspondence letters between Mn/DOT and Mn/DNR staff are included in Appendix B in the Final EIS.

Pine River Depot

The Pine River Depot is located in the southwest quadrant of the Highway 371 and Highway 84 intersection in downtown Pine River. The depot structure is owned by Mn/DOT and located partially on Mn/DOT right-of-way, as well as right-of-way for the Paul Bunyan Trail. The Depot was constructed to service the Brainerd and Northern Minnesota Railway and is currently not in use, but has been previously determined to be eligible for listing in the National Register of Historic Places. Each of the build alternatives considered required removal of the Depot structure. To minimize harm and mitigate impacts to the Pine River Depot, Mn/DOT has been working with the Minnesota State Historic Preservation Office (Mn/SHPO), City of Pine River, Pine River Chamber of Commerce and the Heritage Group North to relocate the Depot on the western side of the rail corridor. A Memorandum of Agreement (MOA) has been executed that describes the impacts to the historic resource, as well as the agreed upon mitigation measures. The MOA is included in Appendix B of the Final EIS.

Brainerd and Northern Minnesota Railway Corridor

The Brainerd and Northern Minnesota Railway Corridor (also known as the Burlington Northern Railroad grade) parallels Highway 371 throughout the entire project corridor and, in several places, is immediately adjacent to the highway. The railway corridor, which is currently occupied by the Paul Bunyan Regional Trail, was identified as eligible for the National Register of Historic Places. All of the build alternatives, including the selected alternative, impact the railway corridor. Up to 19,350 feet of the railway corridor will be potentially impacted. Mn/DOT has worked with the Mn/SHPO to determine the extent of permanent and direct impacts on the railway corridor and developed an MOA that includes mitigation stipulations. The MOA is included in Appendix B of the Final EIS. The MOA requires that Mn/DOT implement a Brainerd and Northern Minnesota Railway interpretation strategy that documents the location of the historic railway.

Based upon the analysis of the project alternatives, it is determined that there are no feasible and prudent alternatives to the use of land from the Paul Bunyan Regional Trail, the Pine River Depot, and the Brainerd and Northern Minnesota Railway Corridor, and that the proposed action includes all possible planning and design to minimize harm to the Section 4(f) resources.

D. MEASURES TO MINIMIZE HARM

A variety of measures have been identified to mitigate social, economic, and environmental impacts associated with the construction of the selected alternative. The specific elements of the proposed mitigation plan are detailed in the Final EIS. Commitments typically include components that will be incorporated in the final design of the preferred alternative and mitigation measures that will be implemented as part of the construction project. This project will comply with all federal and state laws and regulations which are applicable at the time of permitting.

All practicable measures to minimize environmental harm have been incorporated into the decision. These measures include:

Right-of-way and Relocations

All relocation and right-of-way acquisition will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.

Paul Bunyan Regional Trail

As stated above, the Paul Bunyan Trail will be impacted as a result of the selected alternative. The Mn/DOT and Mn/DNR have agreed on the proposed use of portions of the existing trail and proposed mitigation strategies. The two agencies will continue to actively coordinate through the final design phase to define specific mitigation for each impact area to ensure the trail will be "made whole" as part of the highway reconstruction project.

Historic Properties (Section 106)

Mn/DOT will carry out the commitments stipulated in the Section 106 Memorandum of Agreement for the Pine River Depot and the Brainerd and Northern Minnesota Railway corridor.

Contaminated Properties

During the final design process, properties to be acquired will be investigated further for potential contaminated materials and to determine the extent and magnitude of contaminated soil or groundwater in the areas of concern. Evidence of contamination will be reported to the Minnesota Pollution Control Agency (Mn/PCA) and the current property owner. In addition, coordination and consultation with the Mn/PCA Voluntary Investigation and Cleanup Unit, the Voluntary Petroleum Investigation and Cleanup Unit, the Petroleum Remediation Unit, and the Minnesota Department of Agriculture Voluntary Cleanup/Technical Assistance Program will occur as appropriate, to obtain assurances that contaminated site cleanup work, and/or

contaminated site acquisition, will not result in long-term environmental liability for the contamination, and to obtain contaminated soil and/or groundwater handling and cleanup plan approval.

Excess Materials

The construction contractor(s) will adhere to state and local regulations and special provisions to ensure protection of wetlands and waterways in disposing unusable excavated material.

Surface Water Management and Water Quality

A detailed storm water pollution prevention plan (SWPPP) will be developed during the final design phase. This plan will be completed in accordance with the National Pollutant Discharge Elimination System (NPDES) Phase II permit requirements. Short-term and long-term best management practices will likely include: grassed swales with berms, wet swales, vegetated filter strips, rock ditch checks, rapid revegetation of exposed areas, infiltration basins, detention ponds, and curb and catch basins in urban design segments. These mitigation strategies will be used to provide water quality treatment of storm water runoff before it is discharged into receiving water bodies. Furthermore, construction in or near waterways and wetlands will be undertaken in accordance with Mn/DOT's Standard Specifications for Road and Bridge Construction and other special provisions identified in the SWPPP and NPDES Phase II permit to minimize erosion and sedimentation.

Floodplains

The reconstruction of Highway 371 North over Cullen Brook, Hay Creek, the unnamed flowage south of downtown Jenkins, the unnamed flowage north of downtown Jenkins, Pine River, and Norway Brook will be designed to accommodate the 100-year flood stage by ensuring an acceptable clearance of road structures above the calculated 100-year flood elevation. Additional design features such as steeper side slopes and guardrail will be considered to minimize impacts to these floodplains.

Wetlands

Wetland impacts will continue to be avoided or minimized through the final design phase to the extent possible, as mandated by both federal and state law. Compensatory replacement of wetland impacts will comply with federal guidelines under Section 404 of the Clean Water Act, as well as the replacement criteria described under the rules of the Minnesota Wetland Conservation Act.

Vegetation

Native plant communities have been identified within the project area. If there are unavoidable impacts to sites of concern, collection of native seeds from the sites or transplant options will be explored, along with use of harvested seeds and native prairie seed mixes for revegetation of disturbed areas in the right-of-ways of the highway and the Paul Bunyan Regional Trail.

Threatened and Endangered Species

The final design of the preferred alternative will maintain and/or provide for wildlife passages at the following locations: Cullen Brook, County Road 107, Hay Creek, stream south of Hay Creek, south fork of Pine River, and Norway Brook. This project will be included as part of a statewide wildlife passage monitoring program to determine the types of animals using wildlife passages and the frequency of use. These mitigation commitments are in accordance with the United States Fish & Wildlife Service (USF&WS) Biological Opinion.

E. MONITORING OR ENFORCEMENT PROGRAM

The proposed project is subject to further review by federal and state agencies and local units of government during final design. Several permits will be required prior to the commencement of construction. The review and permit process will be implemented in cooperation with the appropriate regulatory agencies.

Additional specific monitoring and enforcement that will occur for the Highway 371 North Improvement Project includes:

- The inclusion of this project as part of a statewide wildlife passage monitoring program to determine the types of animals using wildlife passages and the frequency of use.
- Erosion prevention and storm water treatment monitoring, inspection, and reporting will be required during construction as part of the NPDES construction permit requirements.
- In accordance with the Section 404 permit and the Wetland Conservation Act approval, Mn/DOT will be required to monitor wetland restoration sites for a minimum of five years after restoration is complete. The purpose of wetland replacement monitoring is to ensure that the replacement wetland achieves the goal of replacing lost functions and values.

F. COMMENTS ON FINAL ENVIRONMENTAL IMPACT STATEMENT

Two agency comments (one from the United States Environmental Protection Agency and one from the Minnesota Department of Natural Resources) and thirteen public comments were received during the comment period for the Final EIS. The substantive comments are summarized and responded to below. No response is provided for statements of preference, statements of fact, general opinions, or comments agreeing with the project information. Responses to these letters are as follows:

United States Environmental Protection Agency (EPA)

The letter from the EPA, dated February 17, 2005, acknowledged that their comments had been adequately addressed.

Response: No response is necessary.

Minnesota Department of Natural Resources (Mn/DNR)

The letter from the Mn/DNR, dated February 16, 2005, offered comments concerning cumulative and secondary impacts and aggregate resource extraction.

Cumulative and Secondary Impacts

The Mn/DNR expressed a concern that the issues of cumulative and secondary impacts were not adequately addressed in the EIS.

Response: As discussed in the Draft EIS, a separate report entitled "Draft Technical Report: Assessment of Cumulative and Secondary Environmental Impacts, Trunk Highway 371 Corridor" was prepared as a result of several proposed projects along the TH 371 corridor. The report concluded "with growth trends already firmly in place, and with Mn/DOT in a mode of providing the needed infrastructure, there are no adverse cumulative impacts anticipated that would be linked directly to the highway improvements assessed in the EIS". Also, for secondary impacts, it was concluded that the extent to which highway improvements may contribute to development of an area is relatively small. It is unlikely that this project will cause any adverse secondary impacts.

Aggregate Resource Extraction

The Mn/DNR expressed a concern with the impacts from aggregate resource extraction that could result from the project.

Response: The contractor has discretion over areas in which to extract aggregate. The contractor is expected to complete appropriate environmental review prior to extracting aggregate from those areas.

Robert Morgan

The letter from Robert Morgan, dated February 8, 2005, and subsequent additional comments submitted, offered a number of design suggestions at the Highway 371/County Road 17 intersection, West Twin Lake Road and intersection north of Nisswa.

Response: These suggestions were evaluated by the Mn/DOT Design Team. In some cases, these suggestions are being incorporated into the project design. In other cases, engineering, cost or environmental impact consideration preclude their implementation.

John E. and Nancy R. Brunes

The letter from John and Nancy Brunes, dated February 14, 2005, requested a meeting with Mn/DOT to discuss changes in access to their property.

Response: John and Nancy Brune's property will lose direct access to Highway 371. However, reasonable access will be provided in accordance with appropriate laws and policies. Mn/DOT has discussed the change in access with John Brunes.

Gloria Papillon

The letter from Gloria Papillon, dated January 30, 2005, offered comments concerning the placement of Ultra Flight Drive.

Response: Meetings have been held with Gloria Papillon and the design details of Ultra Flight Drive are being developed with her participation.

Jacquelyn Wesolosky

The e-mail messages from Jacquelyn Wesolosky, dated January 25, 2005 and February 16, 2005, offered comments concerning the alternatives that were studied, noise impacts to the Drew Cabin Complex, public involvement and wildlife impacts.

Response: Several alternate corridor options were investigated during the early stages of project development. Those alternatives that were studied in the Draft EIS represented the reasonable alternatives that met the purpose and need for the project. The selected alternative, Alternative 2, is the environmentally preferred alternative. This alternative minimizes impacts to the natural environment, requires the least amount of new right-of-way, has the fewest relocation impacts, has the best benefit-cost ratio, and has the lowest estimated project cost. In

addition, this alternative allows for the implementation of access management strategies and provides a safe and efficient transportation facility. This alternative received the greatest amount of support from the public and city officials during the public comment period.

Concerning noise impacts, the EIS utilized standard noise measurement and modeling techniques to determine noise impacts. Specifically, at the Drew Cabins, noise measurements and predictions remain below federal and state standards. In addition, the noise modeling indicated a difference of 2 dBA between the No-Build and selected alternative, a difference that is imperceptible to humans.

Of the noise mitigation considered for this project, only one site, near Fritz's Resort and Campground, met the cost effectiveness criteria used by the Federal Highway Administration and Mn/DOT. However, based upon meetings with the Resort owner and the desire for visibility to the Resort, noise mitigation is no longer proposed at this location. Therefore, no noise mitigation will be incorporated into the project.

Concerning public involvement, it is unfortunate that Jacquelyn Wesolosky's family was able to attend only two of the fifteen public meetings for the project. However, there was considerable opportunity for public involvement on this project. Public meetings were held at appropriate times during the project development process.

Impacts to fish and wildlife were discussed in the Draft EIS. In addition, Section 7 consultation under the Endangered Species Act was completed with the USF&WS concerning the gray wolf, bald eagle and Canada lynx. The USF&WS concluded, on August 9, 2004, that the project would not likely adversely affect the gray wolf or the bald eagle. On September 22, 2004, the USF&WS concluded that the proposed project is not likely to jeopardize the continued existence of the Canada lynx.

Jane Ness

The letter from Jane Ness, dated February 15, 2005, expressed concerns regarding safety and impacts to "Bobber Land Park".

Response: Concerning safety, every effort will be made to design the Highway 371 North project so that it is safe for all users. In particular, in Pequot Lakes, the highway will have an urban design. The sidewalk, concrete islands, and concrete medians at the future CSAH 11 intersection will be designed to safely direct pedestrians through the signalized intersection.

Concerning "Bobber Land Park", based on the assessment of the proposed highway improvements, the park property will not be directly impacted by the proposed project.

Claudia Hirschey

The letter from Claudia Hirschey, dated February 16, 2005, expressed concerns regarding potential cumulative adverse impacts and water quality.

Response: Concerning potential cumulative adverse impacts, as discussed in the Draft EIS, a separate report entitled "Draft Technical Report: Assessment of Cumulative and Secondary Environmental Impacts, Trunk Highway 371 Corridor" was prepared as a result of several proposed projects along the TH 371 corridor. The report concluded "with growth trends already firmly in place, and with Mn/DOT in a mode of providing the needed infrastructure, there are no adverse cumulative impacts anticipated that would be linked directly to the highway improvements assessed in the EIS".

Concerning water quality, it is difficult to determine the Best Management Practices (BMP's) to be used until the detail design phase of the project. At that time, specific BMP's will be designed in accordance with good design practice and permitting requirements. As outlined in the Final EIS, potential BMP's will likely include: grassed swales with berms, wet swales, vegetated filter strips, rock ditch checks, infiltration basins, detention ponds, and curb and catch basins in urban design segments. Currently, existing surface water drains directly to area lakes, streams, and rivers. With the proposed project, this surface water will be treated. Therefore, overall water quality should improve.

Audrey and John Lundberg

The letter from Audrey and John Lundberg, dated February 3, 2005, requested specific information concerning the highway design near their property.

Response: The specific design of Highway 371 at this location has been discussed with Audrey and John Lundberg. Coordination will continue with Audrey and John Lundberg throughout the design phase of the project.

CONCLUSION

The selection of Build Alternative 2 – the reconstruction of Highway 371 North to a four-lane divided, controlled access

highway that primarily follows the existing highway alignment from the intersection of Crow Wing County Road 18 in Nisswa to Cass County Road 2/42 in Pine River; was made after careful consideration of all social, economic, and environmental factors, and with input from municipalities, local, state and Federal agencies, and the public.



Thomas K. Sorel
Division Administrator
Federal Highway Administration

3/9/05

Date